

MDR Tracking Number: M5-04-0320-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 9-30-02.

The IRO reviewed office visits, joint mobilization, myofascial release, electrical stimulation, diathermy, and massage rendered 9-30-02 through 1-9-03 that were denied as unnecessary medical

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO has determined that the joint mobilizations from 9-30-02 through 10-4-02 and the office visits on 10-21-02, 10-30-02, 11-12-02, 1-3-03, 1-7-03, and 1-9-03 were medically necessary. The IRO agrees with the previous determination that the joint mobilizations from 10-7-02 through 1-9-03, myofascial release, electrical stimulation, diathermy, and massage from 9-30-02 through 1-9-03, and the office visits on 9-30-02 through 10-11-02, and 1-6-03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO. On 1-9-04, the requestor submitted a letter of withdrawal for the office visit rendered 11-22-02 that was denied per the Medical Fee Guideline.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order. This Order is applicable for dates of service 9-30-02 through 1-9-03 in this dispute.

This Order is hereby issued this 13th day of January 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division
DZT/dzt

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 1/12/04

MDR Tracking Number: M5-04-0320-01

November 17, 2003

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

____ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ____.

Notice of Independent Review Determination

CLINICAL HISTORY

A 47-year old male line worker was repeatedly lifting and moving countertops weighing approximately 40-50 pounds each when he suddenly felt a "pop" in his neck. Thereafter, he experienced both neck and right shoulder pain and received treatment from several doctors.

REQUESTED SERVICE(S)

Office visits, joint mobilization, myofascial release, electrical stimulation, diathermy, record copies (99080) and massage for dates of service 9/30/02 to 1/9/03.

DECISION

The joint mobilizations (97265) from 9/30/02 through 10/4/02 are approved. The office visit (99214) on 10/21/02 is approved. The office visits (99213) on 10/30/02, 11/12/02, 12/13/02, 12/17/02, 1/3/03, 1/7/03 and 1/9/03 are approved. The record copies (99080) are approved. All other services performed on the specified dates are denied.

RATIONALE/BASIS FOR DECISION

The office visit for 9/30/02 (99214) failed to meet the documentation requirements for a “detailed” examination and a “detailed” history and/or “medical decision making of moderate complexity” (per *Current Procedural Terminology*, or CPT); it is therefore denied for insufficient documentation. However, the office visit for 10/21/02 sufficiently documented 20-25 minutes of doctor face-to-face time to render patient counseling, and is accordingly approved.

The other office visits (99213) are denied because they failed to meet the documentation requirements of an “extended” history and an “extended” examination and/or “medical decision making of low complexity” (per CPT); however, the approved office visits — although they also failed to meet this criteria — successfully documented a time override of doctor face-to-face time of at least 15 minutes, and are therefore approved.

Regarding the issue of the remaining services within the range, they are denied. ___ records fail to substantiate that these services fulfilled the requirements of Texas Labor Code 408.021 that states:

- a) An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to health care that:
- 1) cures or relieves the effects naturally resulting from the compensable injury;
 - 2) promotes recovery; or
 - 3) enhances the ability of the employee to return to or retain employment.” [emphasis added]

Since throughout the dates of service in question, the patient’s subjective complaints remain materially unchanged, the services performed during this time frame were medically unnecessary.

Moreover, the Designated Doctor who saw ____ on 11/26/02 stated that unless it was determined by a myelogram and a post-myelogram CT that he was a surgical candidate, then he “would consider him to be at MMI.” (These tests were subsequently performed and they determined that ____ was not a surgical candidate.) Further, an IME was performed on 10/5/02 by ____, who opined that ____ was at MMI at that time. And finally, ____, saw this patient on 1/8/03 and stated that ____ “examination has not changed from ...March 6, 2002.”

Therefore, for lack of medically necessity per TLC 403.021, and for 3 doctors who actually saw and examined the patient during this time frame and who all felt that ____ was at MMI, it is reasonable to discontinue all therapy on 10/5/02, and to allow only those office visits where the documentation supported the level of service rendered, per CPT.

The joint mobilization (97265) services rendered prior to the cut off date are approved, and the documentation sufficiently substantiates both the need for this service, as well as the fact that this service was actually performed.